

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

WESTERN ELECTRIC COMPANY
INC., et al.,)

Defendants.)
_____)

Civil Action File
82-0192 (HHG)

ORDER

Upon consideration of the motion filed by the United States on _____, 1995, to permit BellSouth to provide two-way non-optional extended area service between the Apex, Carey, and Raleigh exchanges of BellSouth in the Raleigh LATA and the Pittsboro exchange of Carolina Telephone and Telegraph Company in the Fayetteville LATA and noting no objection thereto, it is hereby

ORDERED that the motion is granted and that BellSouth may provide two-way non-optional extended area service across a LATA boundary between the Apex, Carey, and Raleigh exchanges and the Pittsboro exchange of Carolina Telephone and Telegraph Company.

Harold H. Greene
United States District Judge

Dated: _____

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-7, SUB 817

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Carolina Telephone and Telegraph Company -)	ORDER AUTHORIZING
Pittsboro to Apex, Cary, and Raleigh Extended)	EXTENDED AREA SERVICE
Area Service)	AND REQUIRING SOUTHERN
)	BELL TO SEEK WAIVER

BY THE COMMISSION: By Order issued May 18, 1995, the Commission authorized Carolina Telephone and Telegraph Company (Carolina) to conduct a poll of the subscribers in its Pittsboro exchange to determine their desire for two-way, non-optional interLATA extended area service (EAS) to each of Southern Bell Telephone and Telegraph Company's (Southern Bell's) Apex, Cary, and Raleigh exchanges. Since no local rate increases applied at Southern Bell's three exchanges for establishing the proposed EAS, polling of those subscribers was not necessary.

On July 24, 1995, Carolina filed the following poll results for its Pittsboro subscribers:

Number of ballots mailed	6,521
Number and (%) of ballots returned	3,369 (51.7)
Number and (%) of ballots returned voting in favor	
Residence	2,793 (93.9)
Business	365 (92.9)
Combined	3,158 (93.7)

This matter came before the Regular Commission Conference on July 31, 1995. The Public Staff recommended that, based on the very favorable poll results of the Pittsboro subscribers, the Commission should issue an Order approving interLATA EAS between the Pittsboro exchange and each of the Apex, Cary, and Raleigh exchanges and requiring Southern Bell to seek a waiver from the federal courts to provide the interLATA EAS.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration of the filings in this docket, the Commission concludes that interLATA EAS between the Pittsboro exchange and each of the Apex, Cary, and Raleigh exchanges should be approved and that Southern Bell should be required to seek a waiver from the federal court to provide the interLATA EAS.

IT IS, THEREFORE, ORDERED as follows:

1. That two-way, non-optional EAS between the Pittsboro exchange and each of the Apex, Cary, and Raleigh exchanges be approved.
2. That Southern Bell immediately begin proceedings in the federal court to obtain the waiver necessary to implement the EAS over an interLATA route and report to the Commission within six months of the effective date of this Order its progress in obtaining the waiver.
3. That, after the waiver shall have been obtained, Carolina and Southern Bell submit a time schedule to the Commission for establishing the EAS service and file the necessary tariffs with the Commission upon the in-service date of the EAS.

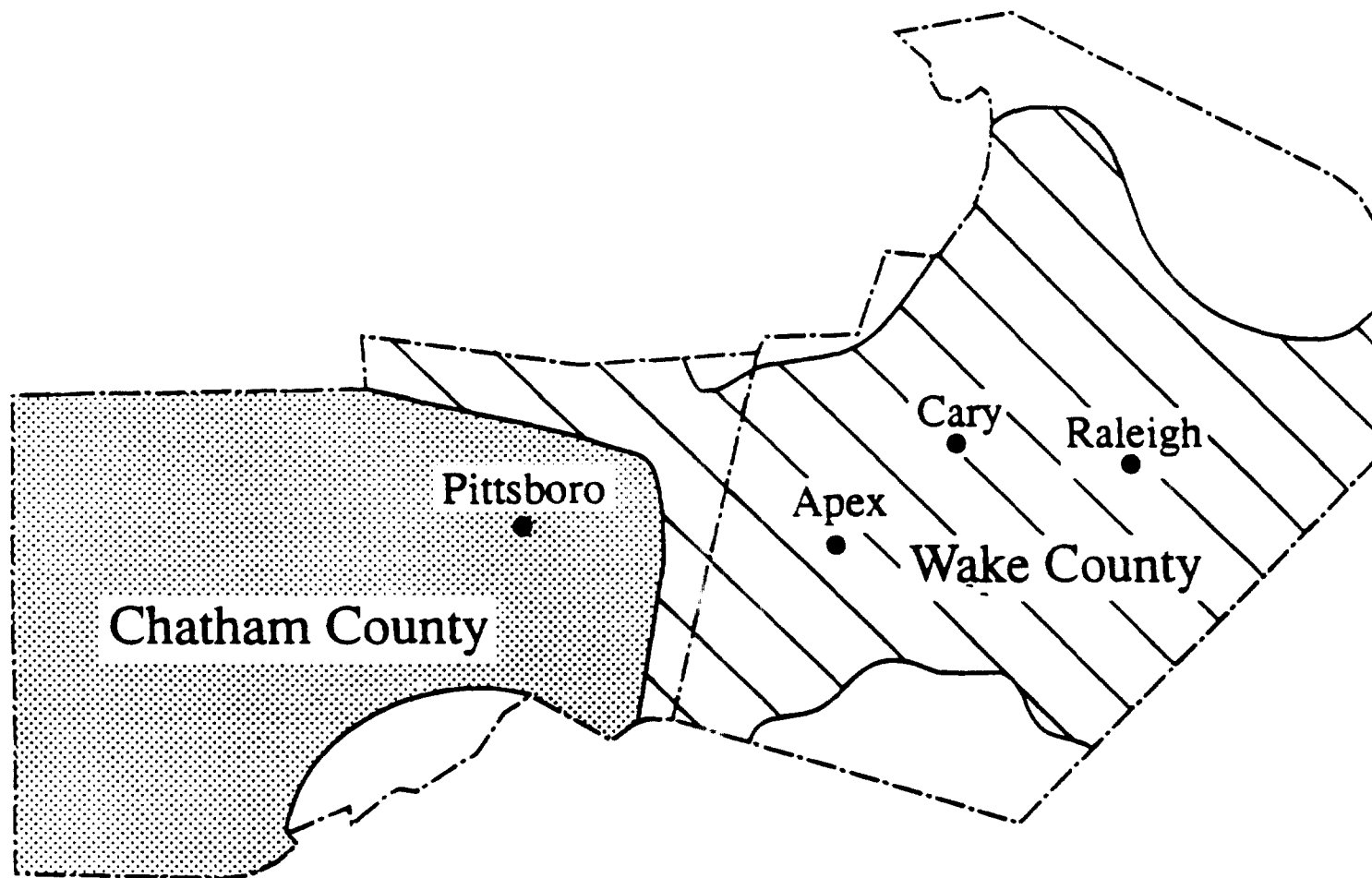
ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of August 1995.

NORTH CAROLINA UTILITIES COMMISSION

(SEAL)

Gail Lambert Mount
Gail Lambert Mount, Deputy Clerk



----- County Boundray



Fayetteville, NC Lata
Carolina Telephone



Raleigh, NC Lata
BellSouth

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-7, SUB 817

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Carolina Telephone and Telegraph Company -)	ORDER AUTHORIZING
Pittsboro to Apex, Cary, and Raleigh InterLATA)	POLLING
Extended Area Service)	

BY THE COMMISSION: Over the past several months, the Public Staff has received resolutions, letters and petitions in support of two-way, non-optional interLATA extended area service (EAS) between Carolina Telephone and Telegraph Company's (Carolina's) Pittsboro exchange and each of Southern Bell Telephone and Telegraph Company's (Southern Bell's) Apex, Cary, and Raleigh exchanges. Support for the proposed EAS comes from State Representatives Anne Barnes, Joe Hackney, and Arlie F. Culp, the Chatham County Board of Commissioners, Wake County Government, the Towns of Apex and Pittsboro, the Chatham County School Board, the Chatham County Economic Development Commission, the Triangle J Council of Governments, Central Carolina Community College, the Joint Orange-Chatham Community Action Association, the Chatham County Ministerial Group, Chatham County United Chamber of Commerce, Fearrington Homeowners Association, individual residence and business subscribers and petitions signed by approximately 2,000 subscribers from the affected exchanges.

The Pittsboro exchange, which currently has 6,302 local access lines and is in Carolina's Fayetteville LATA, serves as the county seat for Chatham County and has existing EAS to four exchanges in Chatham County, as well as to the Chapel Hill and Sanford exchanges, respectively. The Apex exchange with 13,338 local access lines, the Cary exchange with 42,536 local access lines, and the Raleigh exchange with 236,657 local access lines, are all in Southern Bell's Raleigh LATA and provide telephone service primarily in Wake County. All three exchanges have existing EAS to each other, as well as to the other five exchanges in Wake County and to the Research Triangle Park. In addition, the Raleigh exchange has EAS to the Angier, Clayton, Benson, Four Oaks, Selma and Smithfield exchanges. Both the Apex and Cary exchanges extend into Chatham County with the Apex exchange being adjacent to the Pittsboro exchange and the Cary exchange being located between the Apex and Raleigh exchanges. Nearly 10%, or approximately 1,300 subscribers, reside in the Chatham County portion of the Apex exchange. While very few subscribers currently reside in the Chatham County portion of the Cary exchange, a development is being planned in that general area that could increase the number of subscribers substantially.

Based on application of Carolina's and Southern Bell's EAS matrix tariffs, the following monthly basic local rate increases would apply for establishing the proposed EAS:

<u>Exchange</u>	<u>Residence</u>	<u>Business</u>
Pittsboro	\$ 0.58	\$ 1.33
Apex	\$ 0.00	\$ 0.00
Cary	\$ 0.00	\$ 0.00
Raleigh	\$ 0.00	\$ 0.00

Carolina and Southern Bell have provided the following results of interLATA toll calling studies made between the affected exchanges :

<u>Exchange</u>	<u>CIF</u>			<u>PMC(%)</u>		
	<u>Res.</u>	<u>Bus.</u>	<u>Combined</u>	<u>Res.</u>	<u>Bus.</u>	<u>Combined</u>
Pittsboro to Apex	1.6	0.5	1.4	27	11	24
Apex to Pittsboro	—	—	0.7	—	—	—
Pittsboro to Cary	1.0	0.4	0.9	23	9	20
Pittsboro to Raleigh	4.1	2.2	3.7	56	22	50

The interLATA calling results provided by Carolina for its Pittsboro exchange have been adjusted based on the percent of subscribers pre-subscribed to the long distance carriers for which Carolina does the billing. From the billing records, Carolina extracts data for computing the calling results.

This matter came before the Regular Commission Conference on May 1, 1995. The Public Staff stated that the results for calling from the Pittsboro exchange to the Raleigh exchange meet the criteria set out in Commission Rule R9-7(d)(2) for an inter-county EAS proposal between exchanges without a common boundary. Results for calling from the Raleigh and Cary exchanges to the Pittsboro exchange are not available. The Public Staff requested the Commission to waive these requirements. With both Raleigh and Cary being much larger than Pittsboro, such calling results would be expected to show low calling interest in those directions.

The results for calling between the Pittsboro exchange and each of the Apex and Cary exchanges do not meet the criteria for inter-county EAS proposals. However, the Public Staff stated its belief that the Commission should further pursue EAS on those routes based on the following special circumstances to Rule R9-7(d)(3):

1. To go from the Pittsboro exchange to the Raleigh exchange requires skipping over both the Apex and Cary exchanges. The Commission has previously ruled in the Sampson County EAS proposal in Docket No. P-7, Sub 785, in the Huntersville to Mooresville EAS proposal in Docket No. P-55, Sub 974, and in the Topsail Island to Scotts Hill and Wilmington EAS proposal in Docket No. P-7, Sub 802, that avoiding

skipping over an exchange constitutes a special circumstance and has authorized polling for EAS over such routes even though calling results did not meet the standards in Rule R9-7

2. In an effort to address local calling needs and to alleviate requests for EAS, both Carolina and Southern Bell have filed defined radius plans (DRPs) to offer seven-digit dialed discounted calling options generally within a 40-mile radius around each of their exchanges. However, due to the LATA boundary restrictions imposed by the federal courts on Southern Bell, neither Southern Bell's nor Carolina's DRP includes calling options between the Pittsboro exchange and the Apex and Cary exchanges. Therefore is the only flat-rate plan available to offer relief for calling between these exchanges

As indicated earlier, the establishment of EAS between the Pittsboro and Apex exchanges would provide local calling to the county seat for the nearly 10% or approximately 1,300 subscribers in the Apex exchange that reside in Chatham County. Since application of Southern Bell's EAS matrix tariff produces no local rate increases at the Apex exchange for establishing EAS to the Pittsboro exchange, the rest of Apex subscribers in Wake County would not be directly impacted by the EAS. Likewise, since no local rate increases apply at the Cary exchange for establishing EAS to the Pittsboro exchange, the few subscribers today or a larger number in the future who are in that portion of the Cary exchange in Chatham County, can enjoy local calling to their county seat without directly impacting the Cary subscribers in Wake County.

Accordingly, the Public Staff recommended that the Commission issue an Order finding that special circumstances apply for the proposed interLATA EAS between the Pittsboro exchange and each of the Apex and Cary exchanges and authorizing Carolina to poll the subscribers in its Pittsboro exchange to determine their desire for EAS to the Apex, Cary, and Raleigh exchanges with the poll results to be submitted separately for residential and business subscribers.

The following persons addressed the Commission in support of the proposed EAS: John Bowler, President of the Fearrington Homeowners Association; Uva Holland, Chairperson of the Chatham County Commissioners; Ken Cornatzer, Town Manager of Pittsboro; John Pleasants, President of the Chatham County United Chamber of Commerce; Gloria Williams, Executive Director of the Joint Orange Chatham Community Action, Inc.; The Reverend Carrie Bolton, Representative of the Ministerial Association; Charles Wolfe, President of the Chatham County Board of Realtors; Margaret Pollard, Chatham County Commissioner; John Gabor, a resident of Pittsboro; and Marie Stone, a resident of Moncure.

Mr. Marcus Potter appeared on behalf of Carolina and expressed concerns about the proposal. For example, Carolina questions whether the CIFs and PMCs are accurate since the Public Staff had adjusted them. Carolina conceded that there may be merit to the Apex to Pittsboro portion of the proposal since it involves county-seat calling for part of the Apex exchange.

In its letter to the Commission filed May 5, 1995, Carolina set out the issues in more detail. It set out data submitted by the Company along with the Public Staff's adjustments to that data which increased the CIF and PMC. Carolina argued that the Public Staff's adjustment—which was based on reducing the total access lines in Pittsboro to reflect those customers using the long distance carriers for whom Carolina performs billing—would be theoretically appropriate only if the average calling for customers using carriers that subscriber to the Company's billing services were identical to the customers of carriers that do not use Carolina's billing services and only if the data represented exclusively the calling of Pittsboro subscribers associated with carriers using Carolina's billing services. However, the reported calling data includes casually dialed calls (10XXXX) associated with major carriers that do not use Carolina's billing services. Consequently, Carolina's calling data is not exclusively representative of Pittsboro subscribers using carriers that subscribe to Carolina's billing services and any attempt to adjust the Company's data and portray the adjusted data to be representative of all subscribers in the Pittsboro exchange would be flawed and inappropriate.

Carolina stated it does not believe there is sufficient precision in the data available to determine whether or not this route meets the Commission's criteria for EAS candidates and suggested that this proposal be evaluated on the basis of the special circumstances that might exist rather than based on the manipulation of the available calling data.

Carolina also suggested that this may be an appropriate time for the Commission to consider investigating the possibility of obtaining the calling study data required to properly evaluate an interLATA EAS proposal directly from the carriers and resellers.

In its letter of response dated May 11, 1995, the Public Staff defended its adjustment to the Company's data. The Public Staff stated that the vast majority of the interLATA calling data that Carolina incorporates in the numerator portion of the CIF and PMC calculations is extracted from the records of the subscribers presubscribed to the DXCs for which Carolina still does the billing. However, the denominator for those calculations consists of the total number of exchange local access lines including those lines for subscribers presubscribed to DXCs for which Carolina does not routinely bill. Therefore, the resulting CIF and PMC calculations provided by Carolina are obviously understated and the Public Staff felt it appropriate to seek a way to address the understatement of PMC. It seemed reasonable that the vast majority of the understatement could be accounted for by eliminating from the denominator of the calculation those access lines for subscribers presubscribed to DXCs for which Carolina does not routinely bill since those subscribers and their calls would not appear in the numerator of the calculations. The Public Staff used the factor provided by Carolina for the Pittsboro subscribers presubscribed to DXCs for which Carolina does the billing to recalculate the CIFs and PMCs.

The Public Staff stated that it recognizes that this adjustment does not produce 100% accuracy in the CIF and PMC calculations but believes it addresses the core of the understatement problem.

In addressing Carolina's suggestion that the solution to getting meaningful interLATA calling data is to request it from the DXCs, the Public Staff stated that Southern Bell is already attempting this method and their efforts have met with little success. The data the DXCs provide allows calculation of a combined (residence and business) CIF only and not a PMC. The Public Staff renewed a request made previously that the Commission eliminate from Rule R9-7(d) requirements for interLATA CIF and PMC factors and rely on demonstrated support from petitions, resolutions, letters, etc., for determining the community interest for a given interLATA EAS proposal. The Public Staff urged the Commission to approve its recommendation for Carolina to poll the subscribers in the Pittsboro exchange based on the adjusted CIF and PMC factors and the documented support, including presentations made by supporters at the May 1, 1995, Staff Conference.

WHEREUPON, the Commission reaches the following

FINDINGS AND CONCLUSIONS

After careful consideration of the filings in this docket, the Commission concludes that an Order should be issued finding that special circumstances apply for the proposed interLATA EAS between the Pittsboro and each of the Apex and Cary exchanges and authorizing Carolina to poll the subscribers in its Pittsboro exchange to determine their desire for EAS to Apex, Cary, and Raleigh for the reasons as generally set forth by the Public Staff.

With respect to the controversy concerning appropriate CIFs and PMCs, the Commission concludes that, rather than eliminate the interLATA EAS CIF/PMC requirements entirely as the Public Staff has recommended, it would be preferable to obtain whatever data is available, whether the data is obtained from the DXCs or from the LECs. The Public Staff and the LECs should work together in an attempt to obtain the most reliable information from whatever source is available and reach consensus on how that information is to be used. If consensus cannot be reached, the Commission requests, in the interest of fairness and in order to have as much information as possible upon which to base a decision, that the Public Staff include in its agenda item both the CIF/PMC factors based on the Company's reported data and the adjusted factors and methodology which the Public Staff has utilized to modify the Company's data. The Commission can then use this information, coupled with demonstrated public support and/or circumstances, in reaching decisions in interLATA EAS proposals.

The Commission therefore concludes that the polling in the Pittsboro EAS proposal should be authorized based on the special circumstances outlined by the Public Staff in the agenda item and on the public support. Furthermore, even though the calling data may not be entirely accurate, it does give some indication of significant calling interest between Pittsboro and Raleigh, based on both the Company's reported data and the Public Staff's adjustments. (The CIF requirement was met under Rule R9-7 and the PMC was 40% using the Company's data; the PMC requirement was met using Public Staff's adjustments).

IT IS, THEREFORE, ORDERED as follows

1. That Carolina be authorized to poll its subscribers in the Pittsboro exchange to determine their desire for the proposed EAS utilizing the polling letter attached to this Order as Appendix A as an example.
2. That the poll results be submitted separately for residential and business subscribers by Carolina as soon as the results are known.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of May 1995.

NORTH CAROLINA UTILITIES COMMISSION



Geneva S. Thigpen, Chief Clerk

(SEAL)

Chairman Hugh A. Wells and Commissioner Laurence A. Cobb did not participate in this decision.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO P-7, SUB 817

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Pittsboro to Apex, Cary and Raleigh Extended Area Service)))	NOTICE TO PITTSBORO SUBSCRIBERS REGARDING EAS TO THE APEX, CARY, AND RALEIGH EXCHANGES
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NOTICE IS HEREBY GIVEN that Carolina Telephone and Telegraph Company has been authorized by the North Carolina Utilities Commission to poll the telephone subscribers in its Pittsboro exchange (542, 545) regarding the matter of two-way, nonoptional extended area service (EAS) to Southern Bell's Apex, Cary, and Raleigh exchanges. The purpose of the poll is to determine how many Pittsboro subscribers are in favor of paying higher monthly flat rates in lieu of toll charges for calling to Apex, Cary, and Raleigh. Your existing local calling area will not be affected by this proposal.

**BASIC MONTHLY RATE INCREASES FOR
EAS TO APEX, CARY, AND RALEIGH**

<u>Residence</u>	<u>Business</u>
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\$ 0.58	\$ 1.33
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You are requested to consider the question, mark your preference on the enclosed postcard ballot (stamped and preaddressed), and mail the ballot at your earliest convenience. Ballots postmarked after midnight _____ 1995, will not be counted in the vote. In addition, the ballot must be signed by the customer and a telephone number must be provided in order for the ballot to be counted in the vote. Under the Commission's Rules, you are entitled to as many votes as you have access lines. Please list on the ballot the telephone number of each line to which you subscribe at the address on the mailing. **IF YOU WISH TO HAVE A VOICE IN THIS DECISION, YOU MUST RETURN YOUR MARKED BALLOT.** The Commission's decision on the EAS proposal will be announced after the poll has been completed.

If you need additional information about this matter, you may contact your local telephone office (), or the Public Staff, Post Office Box 29520, Raleigh, North Carolina 27626-0520, 919-733-0882.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of May 1995.


NORTH CAROLINA UTILITIES COMMISSION


 Geneva S. Thigpen, Chief Clerk

(SEAL)

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 1995, a copy of the foregoing was served by first-class U.S. Mail, postage prepaid, to the parties on the attached service list.


Linda D. Painter